

FILED BY CLERK

MAR 13 2008

COURT OF APPEALS
DIVISION TWO

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION TWO

ALISA SALVESTRINI,

Petitioner/Appellant,

v.

TIMOTHY PORTIS,

Respondent/Appellee.

) 2 CA-CV 2007-0136

) DEPARTMENT A

) MEMORANDUM DECISION

) Not for Publication

) Rule 28, Rules of Civil

) Appellate Procedure

APPEAL FROM THE SUPERIOR COURT OF PIMA COUNTY

Cause No. SP-20030674

Honorable Sharon Douglas, Judge Pro Tempore

AFFIRMED

Law Office of Keith A. Singer, PLLC

By Keith A. Singer

Tucson

Attorney for Petitioner/Appellant

Timothy Portis

Tucson

In Propria Persona

H O W A R D, Presiding Judge.

¶1 Alisa Salvestrini appeals from the denial of her motion to change the name of her minor daughter, Savannah Portis. Because the trial court did not abuse its discretion in denying the motion, we affirm.

¶2 “We view the facts in the light most favorable to sustaining the family court’s ruling.” *Bell-Kilbourn v. Bell-Kilbourn*, 216 Ariz. 521, n.1, 169 P.3d 111, 112 n.1 (App. 2007). Salvestrini is the mother of Savannah Portis. Timothy Portis is Savannah’s father. Salvestrini moved to change Savannah’s name to Savannah Portis-Salvestrini. The court held a hearing and subsequently denied the motion. Salvestrini now appeals that decision, primarily arguing the court failed to consider the child’s best interests.

¶3 A transcript of the hearing was not included in the record on appeal, although Salvestrini did attach what appears to be a copy of the transcript to her opening brief. Rule 11(b), Ariz. R. Civ. App. P., requires an appellant to do the following: order the transcript of an electronically recorded hearing no later than ten days after filing the notice of appeal and file a notice of that action in superior court, *see* Ariz. R. Civ. App. P. 11(b)(1), (3); make satisfactory arrangements to pay for the transcript at the same time and file a notice of that action, *see* Ariz. R. Civ. App. P. 11(b)(6); and file the transcript with this court upon docketing of the appeal, serve a copy on the other parties and file a notice in this court confirming service, *see* Ariz. R. Civ. App. P. 11(b)(7). Salvestrini did none of these things.

¶4 Salvestrini bore the “responsibility to include in the record on appeal ‘such parts of the proceedings as [she] deem[ed] necessary.’” *In re Property at 6757 S. Burcham Ave.*, 204 Ariz. 401, ¶ 11, 64 P.3d 843, 846-47 (App. 2003), *quoting* Ariz. R. Civ. App. P. 11(b)(1). We will not consider alleged transcripts attached to the opening brief. *See id.* “‘We may only consider the matters in the record before us. As to matters not in our record, we presume that the record before the trial court supported its decision.’” *Id.*, *quoting* *Ashton-Blair v. Merrill*, 187 Ariz. 315, 317, 928 P.2d 1244, 1246 (App. 1996); *see also* *State ex rel. Dep’t of Econ. Sec. v. Burton*, 205 Ariz. 27, ¶ 16, 66 P.3d 70, 73 (App. 2003); *Baker v. Baker*, 183 Ariz. 70, 73, 900 P.2d 764, 767 (App. 1995).

¶5 Section 12-601(B), A.R.S., provides that a parent may apply to change the name of a minor and that the “court shall consider the best interests of the minor” in determining whether to grant the change of name. *See also Pizziconi v. Yarbrough*, 177 Ariz. 422, 425, 868 P.2d 1005, 1008 (App. 1993) (best interests of child controls with regard to name change). Because the relevant transcript was not included in the record on appeal, we will assume that reasonable evidence was presented to the trial court to support its finding that the proposed name change would not be in Savannah’s best interests. *See Burton*, 205 Ariz. 27, ¶ 16, 66 P.3d at 73. Moreover, we would presume the court made any necessary findings of fact even on a complete record. *See Pizziconi*, 177 Ariz. at 426, 868 P.2d at 1009. Therefore, we find no abuse of discretion in the court’s order denying Salvestrini’s motion to change her daughter’s name.

¶6 Salvestrini, in her reply brief, requested that we hold Portis to the rules of appellate procedure by striking portions of his brief that are in violation. We find no inequity in applying the same rules to Salvestrini.

¶7 The court's order is affirmed.

JOSEPH W. HOWARD, Presiding Judge

CONCURRING:

JOHN PELANDER, Chief Judge

J. WILLIAM BRAMMER, JR., Judge